

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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CANDIDO BAEZ,

Plaintiff,

v.

9:01-CV-0807 (NPM)

J. HARRIS, Deputy Superintendent,  
Shawangunk Correctional Facility;  
DONALD SELSKY, Director,  
Special Housing Unit Program,

Defendants.

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APPEARANCES

OF COUNSEL

Howrey LLP  
Attorneys for Plaintiff  
1299 Pennsylvania Avenue NW  
Washington, DC 20004-2402

Erik T. Koons, Esq.  
James F. Hibey, Esq.  
Richard E. DiZinno, Esq.

New York State Attorney General's Office Timothy P. Mulvey, Esq.  
Attorney for Defendants  
615 Erie Boulevard West, Suite 102  
Syracuse, New York 13204

Neal P. McCurn, Senior U.S. District Judge

SUMMARY ORDER

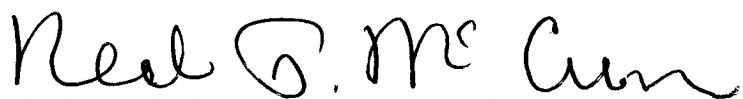
In an order dated December 18, 2007, this court awarded attorneys' fees to above-named plaintiff's counsel, Howrey LLP, in the amount of \$15,000.00, pursuant to the Prisoners Litigation Reform Act, codified at 42 U.S.C. 1997e

("PLRA"). Judgment was entered by the Clerk of the Court on December 19, 2007. This court now offers further clarification pursuant to 42 U.S.C. 1997e as to the parties bearing the burden of satisfying those fees awarded to plaintiff's counsel. Section 1997e(d)(2) states that "[w]henver a monetary judgment is awarded in an action [such as this, where judgment entered for the prisoner, and attorney's fees have been authorized] ..., a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant." 42 U.S.C. 1997e (d)(2) (West 2007). In keeping with the intent of Congress to discourage prisoners from filing frivolous lawsuits by, inter alia, requiring that the prisoner contribute part of an award to payment of his attorney's fees, the court finds that an allocation of 25 percent of the \$5,000.00 compensatory damages awarded to Mr. Baez , \$1,250.00 ( $\$5,000.00 \times 0.25$ ) is reasonable and appropriate.

The previously ordered fee award of \$15,000.00 to Howrey LLP is allocated as follows: \$1,250.00 to be paid from the compensatory damages awarded to Candido Baez, and \$13,750.00 to be paid by the defendant Jimmie Harris.

SO ORDERED.

December 20, 2007  
Syracuse, New York

A handwritten signature in black ink, reading "Neal P. McCurn". The signature is written in a cursive, flowing style. The first name "Neal" is written in a larger, more prominent script, followed by "P." and "McCurn".

Neal P. McCurn  
Senior U.S. District Judge

